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Security Council

Seventy-second year

Provisional

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Thursday, 8 June 2017, 3 p.m.
New York

President:	Mr. Llorentty Soliz	(Bolivia (Plurinational State of))
Members:	China	Mr. Zhang Dianbin
	Egypt	Mr. Aboulatta
	Ethiopia	Mr. Alemu
	France	Ms. Gasri
	Italy	Mr. Lambertini
	Japan	Mr. Akahori
	Kazakhstan	Mr. Temenov
	Russian Federation	Mr. Zagaynov
	Senegal	Mr. Ciss
	Sweden	Mr. Schoulgin Nyoni
	Ukraine	Mr. Yelchenko
	United Kingdom of Great Britain and Northern Ireland	Ms. Mulvein
	United States of America	Ms. Sison
	Uruguay	Mrs. Nuñez

Agenda

Reports of the Secretary-General on the Sudan and South Sudan

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The meeting was called to order at 3.05 p.m.

Adoption of the agenda

The agenda was adopted.

Reports of the Secretary-General on the Sudan and South Sudan

The President (*spoke in Spanish*): In accordance with rule 37 of the Council's provisional rules of procedure, I invite the representative of the Sudan to participate in this meeting.

In accordance with rule 39 of the Council's provisional rules of procedure, I invite Ms. Fatou Bensouda, Prosecutor of the International Criminal Court, to participate in this meeting.

The Security Council will now begin its consideration of the item on its agenda.

I now give the floor to Ms. Bensouda.

Ms. Bensouda: At the invitation of the Security Council, I have come from The Hague to provide my twenty-fifth report on the situation in Darfur, pursuant to resolution 1593 (2005).

When the Council referred the situation in Darfur to my Office, it represented a high-water mark in the international community's collective efforts to realize justice and accountability for the grave crimes under the Rome Statute committed in Darfur. Undoubtedly, that referral not only provided hope but also raised expectations for the thousands of victims in the Darfur situation that justice would be done. Some of those victims put their faith in the Council and in the International Criminal Court (ICC), and bravely came forward to tell my Office their accounts of the horrific events that they had witnessed and suffered. They often did so at great personal risk and cost.

The evidence obtained from those courageous witnesses provided, in large part, the basis for multiple warrants of arrest, including for Mr. Omar Al-Bashir, Mr. Ahmad Harun, Mr. Abdel Raheem Hussein, Mr. Ali Kushayb and Mr. Abdallah Banda. With the issuance of those warrants — and, in the case of Mr. Banda, the confirmation of the charges against him — hope for justice was high. Regrettably, however, for many that hope has increasingly been replaced by disappointment, frustration and even anger at the slow progress in the Darfur situation. Not one of the suspects for whom warrants were issued has been arrested and transferred to the International Criminal Court. Let us not forget: those men stand accused of multiple charges for some of the world's most serious crimes as foreseen under the Rome Statute.

Today, in this important public forum, I say to those victims and their families who continue to long for justice in Darfur, do not despair and do not abandon hope. Despite the many challenges, hope must not be lost, as my Office remains steadfast in its commitment to the task. When choosing between perpetrators and justice, time is in favour of the latter. The United Nations ad hoc tribunals for Rwanda and the former Yugoslavia offer examples that remind us that persistence and determination can result in the arrest and surrender of suspects many years after the issuance of arrest warrants.

I reiterate that my Office remains as determined as ever to pursue justice in Darfur. Despite budget constraints, I took the decision to add additional investigators and analysts to the Darfur team. That increase in the size of the team is yielding results. Existing cases are being strengthened through the collection of additional evidence. Extensive analytical work is also advancing those cases. My Office is also intensifying its investigations into new crimes allegedly committed in Darfur. I take this opportunity to publicly thank my team for their continued efforts in the Darfur situation and for their determination, resilience and professionalism in the face of extremely challenging circumstances, not least the continued policy of complete non-cooperation by the Government of the Sudan and the consequent inability to conduct in situ investigations.

Notwithstanding the challenges my Office continues to face, there are reports of some improvement in the conditions on the ground in Darfur. It is my hope that any genuine improvement may present those committed to peace and justice in the region with an opportunity to make progress.

As the Council is aware, the work of the African Union High-level Implementation Panel, the African Union-United Nations Hybrid Operation in Darfur (UNAMID) and other major stakeholders has led to reports of some recent improvement in the Darfur situation. For example, at the briefing to the Council on UNAMID in April (see S/PV.7912) it was noted that fighting between the forces of the Government

of the Sudan and armed opposition movements had diminished and that the cooperation of the Government of the Sudan had improved. UNAMID access to areas in Jebel Marra that were previously off-limits was reported to have improved, although, as my report makes clear, any increased access will count for little if not maintained.

Of course, as my report also notes, serious problems persist in Darfur. In May, after the briefing I just mentioned, there were reports that the Sudanese army, supported by the rapid support forces, clashed with armed opposition movements in North and East Darfur.

In addition, internally displaced persons continue to be subjected to multiple crimes, including in particular alleged attacks against their camps and sexual and gender-based violence. In that regard, I note that in resolution 2340 (2017), adopted in February 2017, the Council deplored

> "the violations of international humanitarian law and human rights violations and abuses committed by Government of Sudan security forces, their proxies, and armed groups, including those opposing the Government of Sudan, against civilians, including IDPs, particularly in the Jebel Marra area" (*resolution 2340 (2017), sixteenth preambular paragraph*).

I welcome the Council's call, as articulated in that resolution, for all armed actors to refrain from all acts of violence against civilians.

My latest report also highlights a worrying increase during the reporting period of arrests and prolonged detentions of human rights activists and political opponents of the Government of the Sudan. Challenges remain in Darfur. Nevertheless, I cautiously welcome reports of some improvement in the Darfur situation.

As members of the Council have noted on numerous occasions, including in response to my biannual reports, lasting peace in Darfur can be achieved only if the root causes of the conflict are addressed. Those causes are multiple and complex, but they include the pervading toxic culture of impunity in Darfur for Rome Statute crimes. Tackling impunity and pursuing justice for atrocity crimes in Darfur is the task that the Council mandated to my Office. It is a mandate that I will continue to pursue independently, vigorously and impartially, without fear or favour. But I need the renewed support of the Council and of all States, in particular those that are party to the Rome Statute.

In 2005, through resolution 1593 (2005), the Council triggered its de facto and de jure relations with my Office regarding the Darfur situation. Those relations and obligations did not stop upon the adoption of that resolution; on the contrary, they only commenced at that juncture with the expectation of adequate follow-up action and support as necessary. I once again ask this body to provide tangible support for the work of my Office concerning the Darfur situation. In particular, I renew my long-standing request for the support of the Council in relation to efforts to execute the arrest warrants issued by the Court against the suspects in the matter. I am equally compelled to repeat my request for the Council's assistance in facilitating financial assistance by the United Nations for my Office's work in the Darfur situation.

Before the July judicial recess, the Pre-Trial Chamber of the Court will decide whether South Africa acted in non-compliance with the Rome Statute when it failed to arrest and surrender Mr. Al-Bashir in June 2015 and, if so, whether to refer South Africa to the Assembly of States Parties to the Rome Statute of the ICC and/or the Security Council. In making its decision, the Chamber will have the benefit of submissions by South Africa, Belgium, the Southern Africa Litigation Centre, as amicus curiae, and my Office. Taken together, those submissions will allow the Chamber to formulate a reasoned decision that, I hope, will provide the basis for improved coordination among my Office, the Court, States parties and the Council in future efforts to arrest and surrender the Darfur suspects. Those collective efforts are needed now more than ever.

In terms of travel to States parties, most recently Mr. Al-Bashir travelled to Jordan on 29 March 2017. Despite being reminded by the Registry of its obligations to arrest and surrender Mr. Al-Bashir, regrettably Jordan declined to do so. As a consequence, the Pre-Trial Chamber II invited Jordan to provide submissions on that issue for the purpose of a determination by the Chamber on whether to make a formal finding of non-compliance and refer the matter to the Assembly of States Parties and/or the Security Council. At Jordan's request, on 2 June, the Chamber decided to extend the deadline for those submissions to the end of the month. Regrettably, Mr. Al-Bashir's travel to non-States parties also continues. On another occasion, under diplomatic pressure, Mr. Al-Bashir

ultimately did not attend the Riyadh summit in Saudi Arabia scheduled for 20 and 21 May, as previously planned.

Inviting, facilitating or supporting the international travel of any person subject to an ICC arrest warrant is inconsistent with a commitment to international criminal justice. It is also an affront to the victims in Darfur. The States that make up the Council have the power, independently and collectively, to influence and incentivize States —whether or not parties to the Rome Statute — to assist in the efforts to arrest and surrender the Darfur suspects. That applies equally to regional organizations. I respectfully ask the members of the Council to exert that influence in support of the independent and impartial justice my Office is trying to achieve with regard to Darfur.

At a minimum, the Council should demonstrate its support for the work of my Office by taking concrete action in response to decisions of non-compliance or non-cooperation referred to it by the Court. To date, there have been 13 such decisions, and yet not one has been acted upon by the Council. By failing to act in response to such Court decisions, the Council is in essence relinquishing and undermining its clear role on such matters arising from the Rome Statute, as negotiated and adopted, and pursuant to resolution 1593 (2005). I again urge the Council to give serious consideration to the proposals previously advanced by New Zealand and other States for practical and meaningful ways to respond to such referrals by the Court concerning non-compliance and non-cooperation.

As part of those proposals, I also recall that New Zealand pointed to the clear need for the Council to find a way through the current impasse in its relations with the Government of the Sudan. My Office wholeheartedly supports that suggestion. In that respect, it is worth noting that in response to my twenty-fourth statement to the Council in December of last year, the representative of the Government of the Sudan referred to the "important and noble goal of combating impunity" *(S/PV.7833, p. 18)*. If the Government of the Sudan is genuine in its commitment to combating impunity, then the Council should invite it to demonstrate that commitment by beginning a new phase of cooperation with the Council and the Court.

Before concluding my update on cooperation, I note that, while my Office faces challenges in securing cooperation from a number of States, it continues to benefit from the helpful cooperation of a number of other States in relation to the Darfur situation. For that, I express my sincere gratitude and look forward to continued collaboration.

In conclusion, in resolution 2340 (2017) the Council specifically calls on the Government of the Sudan to undertake

> "effective efforts to ensure accountability for violations and abuses of human rights and violations of international humanitarian law, by whomsoever perpetrated" (*ibid. twenty-second preambular paragraph*).
>
> Such efforts at accountability must surely include the full cooperation and assistance from the Sudan to the Court. Such cooperation is specifically required by resolution 1593 (2005), which referred the Darfur situation to my Office. Doing so would demonstrate in clear terms the Sudan's commitment to justice for the victims of Rome Statute crimes in Darfur — the country's own citizens — and a recognition of their suffering.

I also respectfully ask for the renewed engagement of the Council with my Office, in particular in relation to the arrest and surrender of the Darfur suspects. It is imperative that we work together to restore faith and renew hope that justice for the victims in Darfur will finally be realized. Accountability is a prerequisite for sustainable peace in Darfur. My Office continues to seek that accountability. I ask the Council to fully assume its responsibilities arising from resolution 1593 (2005) and to support our efforts in the interests of justice, stability and sustainable peace in Darfur. Should the Council invest in accountability by adequately supporting my Office's work in Darfur, it will surely reap its peace dividends. Let us not forget that the olive branch of peace is barren without the trunk of blind justice.

The President (*spoke in Spanish*): I thank Prosecutor Bensouda for her briefing.

I shall now give the floor to members of the Security Council who wish to make statements.

Ms. Mulvein (United Kingdom): I would like to thank the Prosecutor for her twenty-fifth report on the situation in Darfur, the continued commitment of the Prosecutor and her Office to the investigation and for her briefing.

At the outset, let me express the United Kingdom's full support for the International Criminal Court (ICC) and for its vital work to challenge impunity and bring to account those responsible for the most serious crimes of international concern. We appreciate the important role that the ICC plays, often amid difficult conditions on the ground. That is clearly the case in Darfur. Fifteen years of violence there have shown that there can be no military solution to the conflict. Lasting peace can be realized only with the agreement of a permanent ceasfire and an inclusive political settlement that addresses the root causes of the conflict.

The United Kingdom had welcomed the reduction in military confrontation between the Government of the Sudan and the Darfur armed movements. The announcements of unilateral cessations of hostilities by the Government, the Sudan Liberation Army/Minni Minawi and the Justice and Equality Movement in recent months. We were hopeful that that signalled the parties' willingness to engage genuinely in the peace process. Therefore, we are deeply concerned by reports of renewed clashes in recent weeks between the Government and the Sudan Liberation Army/Minni Minawi. The ongoing risk of violence has a detrimental impact to the safety of civilians and the overall stability of Darfur.

We also continue to be extremely concerned about the use of sexual violence in the conflict, although we note the recent decrease in instances. We urge all parties to show restraint, abide by the unilateral cessations of hostilities and focus their efforts on the peace process under the auspices of the African Union High-level Implementation Panel.

On a more positive note, the United Kingdom welcomes the improvements in access for the African Union-United Nations Hybrid Operation in Darfur (UNAMID) and humanitarian actors in Darfur, in particular to Jebel Marra. We urge the Government of the Sudan to strive for unfettered access throughout Darfur. That will enable the Prosecutor to carry out her investigation and UNAMID to carry out its mandate to protect civilians and facilitate humanitarian assistance. Like the Prosecutor, we remain concerned by reports of continued attacks against internally displaced persons and that some access restrictions remain in place. In the light of the fragile security situation in Darfur, the United Kingdom urges that any changes to UNAMID during the upcoming mandate renewal be done in a manner that is gradual, flexible and retentive of the nation's ability to continue to protect civilians.

Over the course of 25 reports, the Prosecutor has consistently made it clear that the Court needs the cooperation of States and the support of the Council in order to move forward on the situation at hand. We all need to look carefully at what more we can do in order to ensure that the Court receives the support that it deserves. The United Kingdom will continue to call on the Government of the Sudan to meet its obligations under resolution 1593 (2005) to cooperate fully with the Court, execute outstanding arrest warrants and fulfil its international obligations.

The United Kingdom is frustrated that fugitives of the Court, including President Al-Bashir and Mr. Hussein, continue to travel unhindered. We appreciate that States may sometimes have conflicting commitments to other regional and international organizations, but we join the Prosecutor in urging those States to consult with the Court.

For our part, we will continue to raise our concerns with the relevant Governments with the ultimate goal of achieving justice for the thousands of victims in Darfur. We renew our call to all States parties to cooperate with the ICC and to abide by their Rome Statute obligations.

We welcome the renewed vigour with which the Office of the Prosecutor is approaching the investigation. The Office should be commended for the progress that it has made on the investigation despite the fragile security situation, the access restrictions, the continued clashes and the lack of cooperation.

Finally, the United Kingdom would like to offer its appreciation for the effort that the Office of the Prosecutor has put into making the most effective and efficient use of the resources that it has available. I take this opportunity to reaffirm the United Kingdom's commitment to supporting the Court as both a State party to the Rome statute and a member of the Security Council.

Mr. Alemu (Ethiopia): We thank Prosecutor Fatour Bensouda for her briefing. We have great respect for her and the responsibility that she has. There should be no doubt about that, despite the differences that we have had — and still have.

We strongly condemn the recent attack carried out by an unidentified group against peacekeepers of the African Union-United Nations Hybrid Operation in

Darfur (UNAMID) in Nyala, in South Darfur state. We mourn the death of the Nigerian peacekeeper and express our condolences to his family, as well as to the people and the Government of Nigeria.

The topic of this afternoon's discussion is very important to us indeed, for obvious reasons. Time and again, we in Africa have affirmed our unflinching commitment to fighting impunity and promoting democracy, the rule of law and good governance throughout the continent, in line with the Constitutive Act of the African Union. That has been empirically validated by bold actions taken by the African Union (AU) in recent times. When it comes to the International Criminal Court (ICC), many African Union member States have ratified the Rome Statute, faithfully subscribing to its cardinal objectives and principles. Unfortunately, the manner in which the International Criminal Court has been operating ended up being a major disappointment and left a very bad impression in Africa. That is why Africa has been expressing a serious reservation about the ICC, and this has been reflected in a number of decisions adopted by the policy organs of the African Union.

On the issue of the Sudan and the ICC in particular, the African Union was convinced that the referral by the Council of the situation in Darfur to the ICC and subsequent developments as it related to the President of the Sudan would cause more harm than good. That it would seriously undermine the ongoing efforts aimed at facilitating the early resolution of the conflict in Darfur was in no doubt.

In view of the delicate nature of the peace process, the AU repeatedly requested the suspension of the proceedings against President Omar Al-Bashir of the Sudan and urged the Security Council to withdraw said referral to the ICC. Given the indispensable role that the Sudanese President was playing for peace, not only in the Sudan but also in the subregion in general, it was the conviction of the AU, including at the summit level, that the whole effort was short-sighted, with grave implications for the peace and security of the region.

The position taken by the AU was not by any means the result of an emotional reaction motivated by the urge to defend an African leader regardless; far from it. Past experiences on our continent and elsewhere amply demonstrate the need to balance justice on the one hand, and security and reconciliation on the other, in complex conflict situations. It is in the light of this fact that we in Africa have been insisting on the importance of finding homegrown solutions to some of the intractable conflicts on our continent.

It is on the basis of this understanding that the African Union requested said deferral, in accordance with article 16 of the Rome Statute, under Chapter VII of the United Nations Charter.

It is indeed regrettable that Africa's repeated requests have so far been neither heard nor acted upon. That is why we feel that it is our obligation, as an African member, to reiterate once again the request made by the African Union, which should be responded to by the Council with a view to promoting lasting peace and reconciliation in the Sudan.

The undue politicization that has victimized the President of the Sudan needs to come to an end. I hope that Prosecutor Bensouda will come to this conclusion, for which she will need the support of the Council.

The fact that Sudan has been playing a constructive role in dealing with peace and security issues in the region is not widely recognized. President Omar Hassan Al-Bashir has indeed been demonstrating the political leadership and commitment necessary to resolve the Darfur issue and also address outstanding issues with South Sudan.

As we have been saying for quite some time now and as acknowledged by the various reports of the Secretary-General, including the recent special report on the strategic review of UNAMID (S/2017/437), the situation in Darfur has continued to show marked progress. The hostilities between the Government of the Sudan and rebel forces have decreased substantially, and the security situation on the ground has improved significantly.

I wish to applaud Prosecutor Bensouda for recognizing and appreciating this fact. The Darfur peace process laid out by the African Union High-level Implementation Panel and supported by UNAMID has also achieved some progress. This notwithstanding, the lack of constructive engagement by the leaders of the remaining armed movements has been a major obstacle.

Of course, we also recognize that a lot remains to be done in addressing the root causes of the conflict in Darfur and ensuring long-term stability. It is for that reason that we would like to call on the Government to redouble its efforts to implement all the remaining tasks. The international community should also live

up to its commitments, and the Council in particular should exert pressure on the armed movements to negotiate seriously to put an end to the suffering of the people of Darfur.

Finally, we condemn in the strongest terms the attacks conducted by the armed movements in Darfur on 19 and 20 May, aimed at undermining the implementation of the ceasefire and reversing the positive momentum registered so far. We urge the leaders of these armed groups to lay down their arms and join the political process without delay. Of course, as already indicated, the case against the President of the Sudan is so weak that its continuation makes no sense. In fact, it would only damage the credibility of the Council, for the lack of action concerning the issue would not be consistent with the primary responsibility that the Council has for international peace and security.

Mr. Aboulatta (Egypt) (*spoke in Arabic*): At the outset, I should like to thank Ms. Fatou Bensouda, Prosecutor of the International Criminal Court (ICC), for her briefing today before the Security Council on her twenty-fifth report pursuant to Security Council resolution 1593 (2005). In that regard, allow me to stress the following points.

First, there is a unified African position regarding the manner in which the ICC deals with certain issues relating to Africa, which is reflected in the resolutions adopted at African Union (AU) summits. Africa, pursuant to these resolutions, stresses, inter alia, that at a time when the continent is committed to combating impunity in accordance with the AU Constitutive Act, the ICC proceedings against President Omar Al-Bashir, President of the Sudan, must be suspended.

Secondly, the AU summit resolutions urged the Security Council to withdraw the referral to the ICC of the situation in Darfur, and I have expressed strong concern at the fact that the Security Council has not responded to the request of the AU in this regard.

Thirdly, the ICC must not take any measure that could jeopardize peace, security, stability or the dignity, sovereignty and safety of the countries of the continent. The ICC must respect the provisions of international law relating to the immunity accorded Heads of State and other senior officials during their tenure.

Fourthly, and in conclusion, we reject any action taken against any African country under the pretext that it has not complied with its obligations under the Rome Statute or on the basis of its non-cooperation pursuant to Security Council resolution 1593 (2005), because it did not arrest President Al-Bashir and hand him over to the ICC, especially given that there is an obligation on AU member States in this regard under the relevant AU summit resolutions and the AU Constitutive Act.

Mrs. Nuñez (Uruguay) (*spoke in Spanish*): I would like to thank the Prosecutor of the International Criminal Court, Ms. Fatou Bensouda, for her comprehensive briefing on the twenty-fifth report on the activities of her Office on the situation in Darfur in the Sudan. We believe that these transparent and frank briefings provide added value to the analysis of issues that fall within the competency of the Security Council.

At the outset, Uruguay takes this opportunity to reiterate its full support for the role of the International Criminal Court as an institution that was created to strengthen the rule of law at the international level by judging those who are responsible for the most serious human rights violations, which affect humankind as a whole. In this regard, we renew our appeal to States Members of the United Nations that are not yet parties to the Rome Statute to join it, which would contribute to the universalization of this instrument designed to fight against impunity and defend the victims of crimes so atrocious that they constitute a serious threat to the peace and security of all humankind.

We regret that the situation with regard to this subject has remained practically unchanged since December, the last time we addressed it (see S/PV.7850). Having listened to Ms. Bensouda's briefing this afternoon, we wish to express our dismay at the lack of cooperation of the States parties to the International Criminal Court and the lack of observance and implementation of the Rome Statute. Uruguay, as a State party to the Statute, is concerned about all cases of non-cooperation with the International Criminal Court. In this particular case, it is worth recalling resolution 1593 (2005), which states in paragraph 2 that

> "the Government of Sudan and all other parties to the conflict in Darfur shall cooperate fully with ... the Court and the Prosecutor ... [and] urges all States and concerned regional and other international organizations to cooperate fully".

Uruguay supports and is prepared to work to ensure that the Council plays a more active role in considerin instances of non-cooperation with the Court and to make sure that arrest warrants are executed, a necessary

condition for the Court to be able to sufficiently comply with its mandate.

Ms. Bensouda stressed that the Prosecutor's Office had welcomed the action proposed by New Zealand last year. Uruguay agrees that such proposals could empower the Security Council to take concrete action in cases of non-cooperation with the Court. In this regard, the Council should adopt a more structured approach to considering cases of non-cooperation. It is also imperative to resolve the current impasse between the Council and the Government of the Sudan in this regard, taking advantage of the improvement in their relationship with respect to the political process in Darfur and the performance of the African Union-United Nations Hybrid Operation in Darfur.

In conclusion, I would like to send a message of encouragement and congratulate the Prosecutor for her work to investigate the crimes committed in Darfur, which undoubtedly promotes the strengthening of the rule of law and the formation of a society in which perpetrators of crimes are held accountable and the rights and guarantees of all inhabitants are fully respected.

Ms. Sison (United States of America): I thank Prosecutor Fatou Bensouda for her briefing this afternoon.

The need to bring justice to the victims of atrocities in Darfur is overwhelming. For over a decade, Darfur has been synonymous with suffering and unchecked impunity. In responding to a rebellion, the Government launched what became a brutal campaign against the Fur, Masalit and Zaghawa populations. As time went on, the conflict in Darfur grew into a staggering crisis, with thousands murdered, hundreds of thousands deliberately deprived of the basic means of survival, and millions displaced from their homes. Many of us will never forget the first shocking reports of Janjaweed militia on horses and camels storming into villages to kill, rape, torture and burn.

The International Criminal Court (ICC) has examined and charged a horrific list of crimes in the Sudan: genocide by killing, genocide by causing serious bodily or mental harm, genocide by deliberately inflicting conditions of life calculated to bring about the physical destruction of targeted groups, the crimes against humanity of torture, murder and rape, and war crimes, including pillaging and deliberate attacks on peacekeepers. For years, the conflict continued even expanding into other parts of the Sudan.

During that time, we have consistently supported efforts to provide justice and accountability for crimes committed in Darfur and to finally break the cycle of impunity. At the same time, recognizing that the people of Darfur yearned for fewer bombings, less bloodshed, less conflict and greater stability and safety, we have also focused on seeing an end to the conflict. Through bilateral engagement, we identified concrete steps to make tangible improvements in the lives of ordinary Sudanese and have seen results. The Government of the Sudan has taken meaningful positive steps with respect to the conflict, including committing to a unilateral cessation of hostilities, and while some violence persists, we have not seen Government military offensives in this period as we have in every other year since these conflicts began.

The Government of the Sudan has also worked closely with our own to begin to address regional conflicts, improve humanitarian access, combat the threat of terrorism and eliminate the threat of the Lord's Resistance Army. There is certainly more progress to be made on these fronts, but these are welcome steps towards a better future. Indeed, we now see the possibility of long-term progress that we hope will lead to more respect for human rights, more accountability, more rule of law and more justice for Sudanese victims.

But as we see encouraging signs of a new approach to addressing long-standing conflict and hope that further engagement will spur additional progress, we must also be clear: we must neither forget the victims nor the perpetrators of the crimes in Darfur. We cannot simply turn our backs on the victims of genocide who were forced from their homes and left to die of thirst or starvation or on the thousands of women and girls who suffered acts of brutal sexual violence or on those who were targeted on the basis of their ethnic identity. There will be no stable and lasting peace in the Sudan without justice for the many victims of crimes related to the conflict. As Ambassador Nikki Haley has said here in the Security Council,

> "[i]n case after case, human rights violations and abuses are not merely the incidental by-products of conflict, but the trigger of conflict" (*S/PV.7926, p. 4*).

If we do not address the victimization that has occurred and the magnitude of the violations and abuses inflicted,

any peace will be hollow and easy to shatter by those seeking revenge for themselves, their loved ones and their communities.

In the years since the conflict in Darfur began, we have seen inspiring examples of accountability across the globe, where those leaders who targeted their own citizens in order to maintain a stranglehold on power have been forced to face justice. Former Ivorian president Laurent Gbagbo is now in court in The Hague, while Charles Taylor and Hissène Habré are serving lengthy prison sentences. Beyond Africa, senior former Khmer Rouge officials in Cambodia have been sentenced for war crimes and crimes against humanity, and leaders responsible for Dirty War era crimes in Latin America and atrocity crimes in the former Yugoslavia have also been held to account.

The Council should not let the Sudan be an exception. Having referred the situation in Darfur to the ICC over 10 years ago, we must continue to demand the Sudan's compliance with the Council's decisions. While victims have not yet seen justice and refugees and internally displaced persons continue to struggle years after the conflict began, it is unacceptable that President Al-Bashir still travels and receives a warm welcome from certain quarters of the world and unacceptable that none of the Sudanese officials with outstanding arrest warrants have been brought to justice.

Therefore, as we pursue more engagement with the Sudan and greater relief and protection for the survivors of the conflict, we must also recommit to supporting accountability to bring a just and lasting peace to the people of Darfur.

Mr. Akahori (Japan): I would like to begin by thanking Prosecutor Bensouda for her briefing.

Japan expresses its gratitude to the Office of the Prosecutor for its tireless efforts in the fight against impunity, despite the challenges it faces in Darfur.

Security Council resolution 1593 (2005) explicitly states that the Government of the Sudan and all other parties to the conflict in Darfur shall cooperate fully with the International Criminal Court (ICC) and the Prosecutor. Japan urges full implementation of this resolution so that Member States can uphold the credibility and legitimacy of the Council. We share the Prosecutor's frustration over the difficulties in this area. We believe that the Council could do more to address non-compliance.

While noting ongoing efforts among States parties of the Rome statute of the ICC to improve cooperation with the Court, States parties should make further efforts to prevent future non-cooperation by utilizing various measures. The tool kit prepared by some States parties, including Japan and Senegal for this purpose, is one such available and useful measure. Japan also takes note of the exchanges between the ICC and Jordan on the incident in March this year, as well as of the ongoing proceedings in the Pre-Trial Chamber II concerning South Africa. Japan will continue to follow these developments closely.

Japan is encouraged by the improved security situation in Darfur. However, we are concerned by the recent fighting between the Government and the Sudan Liberation Army/Minni Minawi and other rebel forces. We underline the importance of a permanent ceasefire based on the African Union High-level Implementation Panel road map to resolve the conflict in the country. In this regard, we continue to strongly support the Joint Special Representative, President Mbeki, and his good offices.

There are, unfortunately, still 2.7 million internally displaced persons in Darfur according to the special report on the strategic review of the African Union-United Nations Hybrid Operation in Darfur (S/2017/437). Japan is concerned that these internally displaced persons are vulnerable to various forms of violence, including sexual and gender-based crimes. Perpetrators of these and other crimes in Darfur must be brought to justice. Japan emphasizes that the Government's obligations with regard to the Prosecutor and the ICC remain unchanged.

I would like to conclude by reiterating Japan's continued support to the activities of the ICC. Japan looks forward to concrete progress on this issue.

Mr. Yelchenko (Ukraine): We are grateful to the Prosector for her detailed briefing on the situation in Darfur. This is the third report our delegation has heard since we joined the Council in 2016, and we find it alarming that so little progress has been made in the ensuing period and actually since the Security Council referred the situation in Darfur to the International Criminal Court (ICC) over 10 years ago. We welcome the recent months' reports of the visible improvement of the situation in Darfur and we recognize the positive role of the Sudan's Government in this.

Nevertheless, we remain deeply concerned about violations of international humanitarian law, human rights violations and abuses, including attacks against camps of internally displaced persons (IDPs), sexual and gender-based violence and other crimes committed in Darfur in the past. The Council should pay special attention to these crimes. It is even more alarming that those most responsible for them are not held accountable. The ICC is not the one to blame for the current situation. On the contrary, we commend the efforts the Office of the Prosecutor of the ICC has undertaken to move the process forward.

However, the Court's capacities are limited when it comes to execution and enforcement measures. The ICC relies entirely on States' cooperation in carrying out arrests and surrendering suspects. Resolution 1593 (2005), on Darfur, obliges the Government of the Sudan and all other parties to the conflict to cooperate fully with and provide any necessary assistance to the Court and the Prosecutor. Unfortunately, the Sudanese authorities continue to question the Court's jurisdiction.

The travels of the Darfur suspects across international borders with total impunity, including during the reporting period, is also a matter of concern. In this regard, we call on all actors in the region and beyond to fully comply with all their commitments and obligations without exception and ensure full cooperation with the ICC. We would like to emphasize that non-compliance with ICC decisions and requests undermine the foundations of the international criminal justice system. In this respect, we welcome the decision of Gambia to revoke its withdrawals from the Rome Statute. We hope to see its full cooperation with the Court as the next step.

We should consolidate our efforts against impunity. Failure to bring to justice those responsible for the worst crimes promotes further violations. The inevitability of punishment, irrespective of position or the nationality of perpetrators, is a sine qua non.

Finally, I would like to thank the Prosecutor for her dedicated efforts. We hope that her work, despite the challenges just mentioned and limited resources, will bring concrete and tangible results.

Mr. Lambertini (Italy): I would like to thank the Prosecutor of the International Criminal Court, Ms. Fatou Bensouda, for the twenty-fifth report on the International Criminal Court (ICC) and the situation in Darfur, as well as her briefing today and her tireless efforts that we see each time she is in the Chamber.

Yesterday, in the Chamber, we discussed the completion strategy for the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia (see S/PV.7960). Italy stressed the fact that the closing of the Tribunal did not mean the end of the fight against impunity. Today, with specific reference to the referral situation in Darfur to the ICC, let me say that we have a collective responsibility to ensure coherence with the requests that the Council has made to the International Criminal Court.

Twelve years ago, the Council decided to refer this situation to the Court. The Court has started to do its part. This is something the Council requested the Court to do — examine a situation, investigate crimes that were committed and initiate proceedings. However, we are faced with a situation of a prolonged stalemate, which is not satisfactory and is linked to a lack of cooperation. This is not new for international criminal justice. Cooperation with the Court is essential. It is an obligation under resolution 1593 (2005); it is an obligation under the ICC Statute. Moreover, cooperation is a measure of commitment to the fight against impunity, and it can also be extended voluntarily, even when an obligation stricto sensu does not exist. It would be simply coherent with a demand for justice for international crimes that the Council has made and with the commitment of the Council to establish accountability for war crimes, crimes against humanity and genocide. There is no good reason why perpetrators of these offenses should not be brought to justice.

In this specific situation, however, the legal obligations are rather clear and derive from a resolution adopted by the Council under Chapter VII of the Charter of the United Nations. Fulfilment of this obligation is required for justice to be done. There can be differences as to the scope of this obligation and there can be discussion as to the modality and the mechanism for cooperation to occur, but specific processes must be set in place. The Council should find a way to engage with these issues and address differences, identify possible solutions and influence, and support the necessary political will.

If justice is to be able to play its preventive role, the accountability dimension must be fully integrated into our engagement strategy, including dialogue with

situation countries. If we allow perpetrators to believe that the crimes can continue to be committed with impunity, not only are we betraying justice as a principle, but at the more pragmatic level we are depriving ourselves of fundamental tools in preventing conflict and putting an end to the perpetration of atrocities.

I would also like to add that there is no doubt that justice requires a strong element of national ownership. States have the primary responsibility to ensure that justice is done for war crimes, crimes against humanity and genocide. There can be discussion on how to organize interaction between the international community and national authorities, but there is no doubt that domestic systems must be engaged in the process. That engagement requires political will and a shared commitment to ensuring justice for the victims of international crimes.

The security situation in Darfur has improved over the past year. The recent United Nations-African Union joint strategic review of the African Union-United Nations Hybrid Operation in Darfur (S/2017/437) clearly calls on the Council to update its deliberations on the matter. We have no doubt about the Sudan's political willingness to cooperate so as to prevent illicit flows, including human trafficking that connects Darfur to Libya, and to counter terrorism. Despite the remarkable improvement, the root causes of instability in Darfur still lie in persistent impunity, which can be seen in the violation of human rights, the serious humanitarian conditions of internally displaced persons and the moral wounds of the past that are still to be healed. As long as such impunity persists, peace in Darfur will remain fragile.

As far the Council is concerned, as we have stated a number of times, we need a stronger and broader collective engagement in international justice issues. The Council must find a way to be united in the fight against impunity. To do so, it should give itself more opportunities, particularly in formal settings, to discuss that issue and deepen its engagement with all actors involved, including the States concerned in the International Criminal Court.

Mr. Zhang Dianbin (China) (*spoke in Chinese*): China has listened to the briefing by Prosecutor Bensouda. Since last year, there has been marked improvement in the political and security situation in Darfur. The Sudanese Government has been actively dedicated to promoting the peace process and has worked hard to safeguard Darfur's stability and advance its reconstruction. China commends those efforts.

Political settlement is the only solution to the situation in Darfur. The international community should provide active support to the mediation efforts of the African Union High-level Implementation Panel, step up its assistance to the Sudanese Government, armed groups and opposition parties of the area in the implementation of the road map agreement, and urge the Sudan Liberation Army/Abdul Wahid to join the peace process without conditions so as to resolve their differences through dialogue, in pursuit of a lasting and peaceful solution to the situation in Darfur.

The international community should uphold an objective and fair position, respect the sovereignty, independence and territorial integrity of the Sudan and play a constructive role in the political settlement of the situation in Darfur. China's position on the handling of the situation in the Sudan by the International Criminal Court remains unchanged. China believes that the legitimate concerns of the African Union and the Sudanese Government on the Court's handling of the situation in the Sudan should be given adequate attention.

Mr. Zagaynov (Russian Federation) (*spoke in Russian*): We have read the twenty-fifth report of the Prosecutor of the International Criminal Court on the situation in Darfur and wish to comment on its assessment of some of the developments mentioned therein.

The report quite rightly notes that progress has been made in normalizing the situation in Darfur, including the Jebel Marra area. We welcome the announcement made by the Sudanese authorities concerning the extension of the unilateral ceasefire regime. It is important that the regime be more than mere paper — since early this year, we have had no report of armed clashes between the Sudanese army and the rebels. Thanks to the efforts of the authorities, the number of intercommunity clashes and the level of crime have declined. We are witnessing progress in the implementation of the Doha Document for Peace in Darfur, including in the demobilization and reintegration of former combatants. We are also seeing ongoing inter-Darfurian dialogue and consultations.

We also note the steps taken by the Sudanese Government to ensure humanitarian access to Darfur, in particular the development by the Sudanese authorities

of guidelines to streamline the process. We also see very positive developments in the resolution of issues faced by the African Union-United Nations Hybrid Operation in Darfur, such as the issuance of visas and customs clearance of assets for contingents. Against that background, however, the behaviour of some opposition groups in setting additional requirements to continue the negotiations offer a stark contrast. We believe that the external sponsors of the rebels should encourage them to be more constructive.

With regard to the investigation on Darfur, the nature and content of the report of the Office of the Prosecutor has been the same year after year. Once again, the Council is being asked to provide so-called follow-up on the situation in Darfur that we believe to be inappropriate. We do not understand why appeals to compel States parties to the Rome Statute to shoulder their responsibilities are made in the Council Chamber. In our view, if there is no unity among those States about how they should execute arrest warrants issued with respect to Darfur, that should be discussed within the system that governs the Rome Statute, that is, the Assembly of States Parties and its subsidiary bodies. Attempts to exert pressure through the Security Council on those who disagree are counterproductive.

On more than one occasion, we have called attention to the fact that the obligation to cooperate, as set forth in resolution 1593 (2005), does not mean that the norms of international law governing the immunity of the Government officials of those States not party the Rome Statute can be repealed, and presuming the contrary is unacceptable. However, once again, the Office of the Prosecutor does not wish to consider that.

As occurred recently with respect to the situation in Libya, the issue of drawing on resources from the United Nations budget has been raised. Everyone is well aware of our position on that subject so we will not repeat it.

In conclusion, we note that the activities of the Court are not conducive to attaining the goals of justice and sustainable peace held by the Security Council and the international community as a whole.

Ms. Schoulgin Nyoni (Sweden): I would like to join others in welcoming Prosecutor Bensouda back to the Security Council and in thanking her for her briefing and report.

The conflict in Darfur led to reports of genocide, war crimes and crimes against humanity. It was for that reason that, in 2005, the Council referred the situation in Darfur to the International Criminal Court (ICC). Impunity and the lack of accountability for violations of international humanitarian law and violations and abuses of international human rights law shall never be accepted.

Now, 12 years after the Council's referral, further steps still need to be taken by the Government of the Sudan to assure justice for all those who suffered the most horrendous crimes during the conflict in Darfur. The Security Council has an obligation to follow through on its decisions, in this case its unanimous decision to refer the situation in Darfur to the Court. Sweden fully supports the efforts of the Office of the Prosecutor, whose call for the full backing of the Council and Member States must be heeded. That includes through the provision of adequate resources.

It is well known that there have been tensions between the Court and some African States, including States parties, in recent years, and that the unanimous referrals by the Security Council of two situations to the Court may have added to those tensions. Sweden is encouraged by signs of a more positive relationship between some African States and the Court and welcomes the initiatives by the Office of the Prosecutor to continue its outreach regarding the function and jurisdiction of the Court. Apart from referrals from the Security Council, as we know, the Court only has jurisdiction where States have accepted it.

All suspects in the ICC investigations regarding Darfur remain at large.

We call on the Government of the Sudan to cooperate fully with the ICC in accordance with resolution 1593 (2005) and to fulfil its obligations to arrest the individuals subject to arrest warrants. Like many other States Parties to the Rome Statute, Sweden continues to raise the issue of non-cooperation with the Court with relevant Governments. The Court relies on States to fulfil its mandate. It is concerning that President Al-Bashir and others indicted by the Court are able to continue to travel internationally, including to States Parties to the Rome Statute. That sends a public message that the decisions of the Court can be ignored without any consequence which, in turn, undermines the authority of the Council.

In the light of that and, as proposed by several Council members at the briefing last December, Sweden shares the view that the Council should approach cases of non-cooperation in a structured manner and, as a minimum, discuss which tools are available to it, if any, for an appropriate response.

Turning to the current situation in Darfur, we welcome the overall reduction in fighting and the progress made in the peace process. At the same time, we are concerned by reports of incidents of renewed fighting and recurring reports of human rights violations and abuses, in particular, reports of sexual and gender-based violence. In order to address remaining challenges and to build a sustainable peace in Darfur we must address the root causes of instability, as well as ensure accountability and the rule of law.

Ms. Gasri (France) (*spoke in French*): I would like to thank the Prosecutor, Ms. Bensouda, for her report and for her briefing to the Council. We also renew our pledge of support for the Prosecutor, her teams and the International Criminal Court (ICC).

It has now been more than 12 years since the Security Council adopted resolution 1593 (2005). This decision had very clear objectives — to render justice to the victims of the most serious crimes, to prevent the recurrence of atrocities in Darfur, and to promote reconciliation and stability in the Sudan. Now, 12 years after the adoption of the resolution, we see once again that none of those objectives has been achieved and that impunity prevails. Only legal action will put an end to that situation. That is why France calls on all Member States, most notably the Sudan, to implement the arrest warrants issued by the International Criminal Court and to honour their remaining obligations under resolution 1593 (2005).

Without decisive Council action against impunity, instability will continue to prevail in Darfur and civilians will continue to be its primary victims. Admittedly, the Secretary-General's recent reports on the situation in Darfur have reported some encouraging developments on the ground, such as improving conditions in certain areas and unilateral declarations of cessation of hostilities. The access restrictions imposed by the Sudanese Government on the African Union-United Nations Hybrid Operation in Darfur (UNAMID) have also eased. However, as the Prosecutor pointed out in both her report and her briefing, civilians can be protected only if those changes are sustained. To that end, it is essential that the Sudanese authorities allow UNAMID to implement its mandate in accordance with the decisions of the Council and the Peace and Security Council of the African Union.

Moreover, sources of violence and instability persist and intercommunal violence remains one of the main sources of violence in Darfur. Due to the of the weak rule of law, banditry and crime continue. The resumption of fighting between Government forces and armed groups in May is indiscriminately affecting the population. Militias, including those incorporated into the Sudanese armed forces, such as the Rapid Support Forces, are carrying out intolerable attacks on civilians and sowing fear among the population. Their attacks force civilians to leave their villages and, too often, prevent them from returning home.

Let us not forget that today 2.7 million people of Darfur — almost one-third of the region's population — are still displaced. Ensuring their return requires putting an end to all forms of violence and addressing the root causes of the conflict. Breaking the spiral of violence requires holding accountable those who have fueled it. On the one hand, we owe it to the victims, but on the other, it is essential for moving forward.

France and its partners reaffirm the importance of the obligation of all United Nations Member States to cooperate with the Court, in accordance with the resolutions adopted by the Council. That obligation falls primarily to the Sudan, as it must enforce the arrest warrants issued against its nationals for acts committed within its territory and cooperate with the Court, as required by resolution 1593 (2005).

States parties to the Rome Statute also have a special role to play in honouring their statutory obligations to cooperate with the ICC and to execute arrest warrants for individuals found within their territory. In that respect, we regret that this obligation has not yet been kept by some of those States in recent months, and we are grateful to the Prosecutor for following up on that major issue.

In its bilateral relations with those countries, with the Sudan and with its European partners, France will continue to stress the importance it attaches to the fight against impunity and its support for the ICC, and to call on them to honour their international commitment to cooperating with the Court. In that regard, the Council's responsibility is clear. We must ensure effective

cooperation with the Court and, as the Prosecutor notes, take action in cases of non-cooperation with the Court.

We are determined to examine the working methods of the Council on the basis of the proposals made by New Zealand last December. In that spirit, France proposes that the States that the Court has deemed to be in breach of their obligations to cooperate should be called upon to answer to the Security Council. On the basis of that meeting, it would then be up to the Council to decide on next steps. In any case, there must be a follow-up. All United Nations Member States and international organizations must be mobilized. In that respect, we stress the importance of limiting contact with persons with outstanding arrest warrants to essential communication only.

Mr. Ciss (Senegal) (*spoke in French*): The delegation of Senegal is grateful to the Bolivian presidency for organizing this important meeting and thanks Ms. Bensouda, Prosecutor of the International Criminal Court, for her briefing on her report on the current state of the investigations and proceedings of her Office with regard to the Darfur issue, pursuant to resolution 1593 (2005). Senegal once again pledges its full support to Ms. Bensouda.

Nobody can deny the importance of combating impunity for serious crimes committed anywhere and, particularly in Africa. That combat requires the combined efforts of all stakeholders. Senegal recognizes the role of the International Criminal Court in that regard and understands the hope for justice that the Court represents for the millions of victims of heinous crimes. Indeed, the fight against impunity and the respect for the rule of law are fundamental principles in which we firmly believe and which are embodied in the Constitutive Act of the African Union. We are particularly attached to the recognition of the universality of human rights.

Senegal also believes that peace is our common aspiration. As such, seeking a peaceful solution to the situation in Darfur through dialogue, while simultaneously addressing its victims' demands for justice is certainly difficult, but necessary. While my country is commited to the principles of responsibility and justice, it remains convinced that lasting and comprehensive peace can only be achieved through dialogue and reconciliation. That is also the position of the African Union, which calls for the restoration of peace and justice in Darfur.

The report under consideration indicates continuous attacks on internally displaced persons within the country, including sexual and gender-based violence in Darfur camps. In that regard, I would point out that Senegal condemns, in the strongest terms, all forms of violence against civilians. We call on all parties to take the necessary steps so that the perpetrators of such acts are brought to justice. My country nevertheless welcomes the lifting of restrictions on movement in certain areas of Darfur, which, it must be said, makes it easier to carry out the mandate of the African Union-United Nations Hybrid Operation in Darfur in the region.

Moreover, it should be recalled that the Office of the Prosecutor is carrying out its mandate in a constrained budgetary environment, which has the effect of limiting investigative and prosecutorial activities. Senegal would therefore like to reiterate that it will continue to call and work for the Assembly of States Parties to provide the Office with the necessary resources to conduct its work. My delegation would also like to recall that it is up to the Security Council to ensure that the necessary United Nations contributions are provided to the Court in connection with cases the Council has referred to it.

The political and security situation in Darfur continues to pose a major challenge for the international community and to require greater effort from us all. In that regard, while recognizing that political dialogue, joint efforts by stakeholders and establishing security remain the only way to achieve lasting peace in Darfur, we must nevertheless bear in mind that the victims are impatiently awaiting justice, as they are the first to suffer from the prevailing instability. My delegation remains of the view that a spirit of dialogue and cooperation among the parties is both the way to resolve common problems and the best guarantee of a solution that addresses the need for peace and the demand for justice for Darfur.

Mr. Temenov (Kazakhstan): We would like to thank the Prosecutor of the International Criminal Court (ICC), Ms. Fatou Bensouda, for her briefing and for her efforts to uphold the international rule of law, justice and accountability.

Having reviewed the twenty-fifth report of the Office of the Prosecutor on the Court's recent work to implement resolution 1593 (2005), relating to Darfur, we are pleased to note the considerable progress made with regard to the security and humanitarian situation

in the country. We encourage that all efforts be made to maintain that positive trend, with determined steps to further reduce the tension between Government forces and armed groups. The fewer incidents of inter-communal clashes during the reporting period as compared to the previous year, as well as the decline in incidents of rape and sexual abuse, must continue so as to de-escalate and avert unrest.

Kazakhstan welcomes the fact that access to areas in Darfur has been significantly facilitated and expanded, including the ability of the African Union-United Nations Hybrid Operation in Darfur (UNAMID) to visit areas in Jebel Marra. We encourage the Government of the Sudan to further continue its good cooperation with UNAMID in all areas, in the greater interests of the Sudanese people and to ensure progress and prosperity for them.

Kazakhstan is confident that inclusive dialogue is the only way towards a resolution of the Darfur crisis. In that regard, we support the inclusive political process under the leadership of the African Union (AU) High-level Implementation Panel. We encourage all efforts to fully implement the road map agreement by all parties. We therefore commend the unilateral ceasefire declared by the Government of the Sudan for an additional six months ending on 15 June. We express our hope that it will be extended further. The time ahead of us should be used to consolidate the gains.

My delegation believes that respecting the sovereignty, independence and territorial integrity of the Sudan, as well as the ownership and leadership by the Government of the political process, are crucial elements for long-term peace and reconciliation in Darfur. We need to support the Sudan's capability to restore and promote the rule of law, address impunity and protect human rights. The United Nations system and international partners, together with the country team, should make a concerted effort to help the Sudan to continue the progress that has been made, with a view to achieving international norms and obligations with regard to peace and security and sustainable development.

We commend the efforts of the AU and other regional organizations and neighbouring countries to resolve the crisis in Darfur. We welcome the fact that the African Union has established a ministerial committee to deal with the Sudan issue at the ICC. We believe that the position stated by the AU should be taken into consideration. In the light of that, we encourage that an effective ongoing dialogue take place between the ICC and the AU.

Finally, Kazakhstan stands ready to join in multilateral action to help the Government and the people of the Sudan to realize their national aspirations on all fronts.

The President (*spoke in Spanish*): I shall now make a statement and my capacity as the representative of the Plurinational State of Bolivia.

At the outset, Bolivia is grateful for the briefing by Ms. Fatou Bensouda, Prosecutor of the International Criminal Court, in connection with her twenty-fifth report in compliance with resolution 1593 (2005). We listened carefully about the progress made in investigating alleged crimes and about the difficulties the Office of the Prosecutor has encountered with regard to investigations and legal activity, both of which are linked to situations that make it difficult to comply with the mandate entrusted to her.

Bolivia believes that those who have attacked civilians in Darfur, violating their human rights as well as international law, must account for it brought justice. That is important element in achieving stable and lasting after several years of conflict in the region.

While we express our support for the work of the International Criminal Court, we also recognize that some of the difficulties encountered by the Prosecutor's Office have brought to light legal conflicts, such as the one pertaining, on the one hand, to the privileges and immunities enjoyed by State officials under customary international law and, on the other, the provisions of article 27, paragraph 2, of the Rome Statute. Such difficulties could give rise to problems in States' carrying out cooperation tasks with the International Criminal Court. At the request of South Africa, the issue is currently the subject of consultations at The Hague between the Court and a working group of the Rome Statute Assembly of States Parties. We hope that and other consultations will facilitate both States' duties to cooperate with the Office of the Prosecutor as well as the Court's legal tasks. We also hope they will contribute to the international community's efforts to strengthen political processes, in this case when it comes to the Doha Document for Peace in Darfur.

It is also important to recall that when the Security Council referred the situation in Darfur

to the International Criminal Court — by way of resolution 1593 (2005) — it not only decided to activate the Court's jurisdiction to try individuals, it also encouraged the Court to support international cooperation to promote the rule of law, protect human rights and combat impunity, while also emphasizing non-judicial activities, such as promoting peace and reconciliation and strengthening institutions. We believe that cooperation with the African Union is essential in that regard. We are aware of its undeniable commitment to the fight against impunity, as set out in its Constitutive Act. We also recall that the African Union has established a ministerial committee to address issues pertaining to this case. In the same vein, we call for establishing a constructive dialogue between the African Union and the International Criminal Court in order to generate trust and facilitate work between both institutions.

We have seen positive developments taking place in the Sudan over recent months, including a significant decrease in clashes between the Government and rebel groups and an improvement in the Government's cooperation with the African Union-United Nations Hybrid Operation in Darfur (UNAMID). Both recent reports of the Secretary-General and the UNAMID strategic review, and even the Prosecutor's own report, recognize that progress. Bolivia believes that we have arrived at this point mainly thanks to the joint efforts of regional organizations, the Government, the Secretary-General and UNAMID.

It is important to highlight that the evolution and future of international criminal justice are closely linked to State cooperation and complementarity. The International Criminal Court is a complimentary tribunal to States' primary sovereign prerogative to administer justice on its territory. Therefore, in addition to ensuring timely and effective trials, they must establish local capacities. That is an indicator which, in the case of Darfur, should be considered with special attention after more than a decade of conflict.

In full respect for its obligations as a State party to the Rome Statute of the ICC, Bolivia supports efforts to achieve justice and combat impunity. We therefore call on all States that have not yet done so to ratify the Rome Statute so as to ensure its universal jurisdiction. In that regard, we believe that the value of the principle of the universality of international criminal justice is essential. The debate on impunity for perpetrators of crimes against humanity is undermined by the relative capacities of the International Criminal Court due to the non-ratification of the Rome Statute by certain parties. That weakens the effectiveness of its work. We cannot have a sincere dialogue so long as there are countries that insist on the full rigour of the law yet do not meet their own international obligations.

I now resume my functions as President of the Security Council.

I now give the floor to the representative of the Sudan.

Mr. Mohamed (Sudan) (*spoke in Arabic*): I congratulate you, Sir, on assuming the presidency of the Security Council for this month, and thank you for your outstanding work.

I also thank the members of the Council for their statements.

I have two brief comments to make. First of all, the decision to refer the situation in Darfur to the International Criminal Court (ICC) was not unanimous or reached by consensus. Secondly, concerning the question of whether genocide has taken place in Darfur, I have the following comments to make.

In late 2015, the General Assembly adopted resolution 69/323, commemorating the victims of genocide. In our statement on that occasion (see A/69/PV.103), and in support of designating the International Day of Commemoration and Dignity of the Victims of the Crime of Genocide and of the Prevention of This Crime, we recalled all the international testimony that categorically refuted the assertion that any act of genocide had taken place in Darfur. In that statement, we also quoted the testimony of former United States Secretary of State Colin Powell; the former Secretary-General of the United Nations, Mr. Kofi Annan; the President of the African Union in 2004, former Nigerian President Olusegun Obasanjo; the European Union, the African Union and the League of Arab States; and Médecins Sans Frontières, which was awarded the Nobel Peace Prize in 1999 for its role in ending the 1994 genocide in Rwanda. Complementing all this testimony was the report of the International Commission of Inquiry on Darfur, which was submitted to the Council in early 2005, confirming that no genocide had taken place in Darfur.

The International Criminal Court (ICC) and its Prosecutor maintain their assaults and use of inappropriate language that we in the United Nations

and the other organs of international standing are not accustomed to hearing. In the absence of the necessary restraint on the part of the Council, the ICC Prosecutor continues to direct offensive language against His Excellency the President of the Sudan and the Security Council itself, the highest political authority of the United Nations, by using such expressions as "the failure of the Council" or "the loss of its credibility". Concerning the President of the Republic of the Sudan, the 2005 Transitional Constitution stipulates that the President of the Republic is the symbol of the country and its sovereignty. We do not accept any abuse from any quarter, let alone from this defective kangaroo court.

I draw the Council's attention to the statement made by the representative of the Russian Federation in the Security Council to the effect that the reports of the Prosecutor to the Council have started to resemble those submitted by monitoring bodies. I refer Council members to paragraphs 24 to 29 and 34 to 36 of the report, which illustrate the lack of knowledge on the part of the Prosecutor and her Office as to the presumed judicial nature of the Court. It may be appropriate here to recall the statement made by a former President of the Assembly of States Parties to the ICC concerning the ineffectiveness of the Prosecutor, to the effect that the Prosecutor was not even capable of putting together an indictment.

The sorry state of the ICC cannot be addressed except by ignoring it and allowing to collapse from within, which is indeed its inevitable fate. It is an honour for the Sudan to be the country to draw the greatest attention to the flaws in the statute of the ICC that will inevitably bring it into conflict with the irrefutable and imperative norms of international law, such as the principle of equality; the principle that international covenants and agreements are binding only on the parties; and the moral principle of *nullum crimen sine lege*, which stipulates that there is no crime without law.

The ICC, and especially its first Prosecutor and now the current Prosecutor, who is the former Deputy Prosecutor, have treated my country cavalierly and are now tasting the fruits of their overreach, confusion, relentlessness and politicization. Since the jurisdiction of the ICC covers individuals or citizens of States parties to its statute, it is sufficient for us to demonstrate that about 60 per cent of the world's people belong to States that recognize neither the authority nor the jurisdiction of the Court. These include China, Russia, the United States, Egypt, India, Pakistan and Indonesia, whose populations constitute no less than half of the inhabitants of planet, and perhaps more.

The incoherence of the report before the Council today is but the result of the earlier sin establishing a political organ called the ICC to discharge a judicial task — or, if you prefer, the creation of a judicial organ to carry out a political mission. It is no coincidence that the ICC focuses all its investigations and prosecutions on Africa, because it believes that Africa is an easier political mark than others. This disparity goes beyond the prosecutors and the judges; it affects the statute and the very idea of international criminal justice, which are concerned primarily with individuals. Thus, every time His Excellency the President of the Republic of the Sudan responds to an invitation from a State Member of the United Nations or a regional organization, the ICC finds itself in the same predicament. We seek a solid international legal system that invokes the Charter of the United Nations as its primary authority and accords it precedence in terms of commitment and implementation.

Here we are dealing with State commitments under the Charter of the United Nations and the immunity of Presidents and representatives of States, and with the commitments of States to international organizations such as the African Union and other political groups such as the League of Arab States, the Organization of Islamic Cooperation or the Non-Aligned Movement.

We can only conclude that the ICC has given rise to contradictions and conflicts in connection with two long-standing aspects of the international system. The first aspect involves the clashes and the conflicts that the ICC, by its very existence, tries to provoke between the various norms of international law. The second is the conflict it creates between the principles of justice and peace. What is astonishing here is that the person who wrote this report makes reference to the need to take into account the root causes of the conflict, without understanding that that means seeking to conclude a negotiated peace agreement, which is indeed what took place in Doha in July 2011.

Since 2002, it has become evident that failure in terms of implementation has completed a full cycle of failure, since the very beginning, when the ICC was founded. The result of implementation, 15 years after the entry into force of the Statute of the ICC, is sad and disappointing. How many cases have been ruled on by

the ICC? How much has been spent to date? What is the cost of one single trial, if we divide the budget of the ICC over 15 years by the number of trials that have been held? I defy the Prosecutor to answer those questions.

Also, supporters of the concept of the ICC have said that the ad hoc or temporary tribunals created by the Security Council lack the element of deterrence, while the ICC does not, as it is a permanent tribunal. The question here is, to what extent has the ICC succeeded in creating an appropriate level of deterrence for violations of human rights, the rule of law and human rights worldwide, and what is the capacity of the Security Council to ensure the equitable implementation of article 13 of the Statute? Does the Court operate on the basis of equality between all the States that have agreed to be parties to the Statute? Those are the difficult and important questions that the Court must answer, and they must be answered precisely.

We believe that it will be impossible for the ICC and its supporters to answer those questions. But what is important to us at this meeting is the fact that all those discrepancies and shortcomings can be covered up by the Prosecutor only by politicizing her work, inventing evidence or bribing witnesses.

The Office of the Prosecutor sidestepped its judicial and legal task as stipulated in the Statute of the Court and devoted the greater part of the report to elements that are against the Government of the Sudan. This deep desire to condemn the Government of the Sudan warrants only disdain and contempt, because the Prosecutor overlooked the principal task assigned to her.

To our surprise, and I think that most members of the Security Council were equally surprised, the report welcomes the extension of the mandate of the Panel of Experts created by the Security Council under resolution 2340 (2017). We were surprised also to see that the ICC has asked the Government of the Sudan to ensure continued and unfettered access to the various areas of Darfur, even though the report spoke about addressing the root causes of the conflict in Darfur, as if it were thinking of itself as the Security Council. The report states also that unless the root causes of the conflict are addressed, the situation in Darfur will remain unstable and unpredictable.

The catastrophe lies not only in the ineffectiveness of the Prosecutor and her Office; it goes beyond that, given the absence of honesty or any spirit of equity or justice, or even balance, in stating the facts. For a very long time, the Prosecutor and her Office have agreed to play a political role or the role of a monitoring mechanism. It would have been far worthier of them to indicate that resolution 2340 (2017), for the first time since 2005, the year in which the referral decision was taken, states that the situation is largely back to normal in all five states of Darfur, which are equivalent in area to that of France or Iraq, except for a very small part of one of the provinces of Darfur.

The report also avoids mentioning the explicit condemnation in resolution 2340 (2017) of armed movements that use civilian installations as shields, which poses a threat to civilians, especially internally displaced persons. It is the very same report that has never, ever failed to mention paragraph 28, saying that civilians are still in danger.

Finally, we would like to voice our appreciation to the Secretariat, which has distanced itself from the aims of the ICC, which sought to involve it so as to make the ICC appear to be part of the United Nations system when it is not. We wish also to commend the positions of those countries that did not fall for the instigation carried out by the Office of the Prosecutor, as well as the firm position of the Security Council in lending assistance aimed at definitely ending the conflict in Darfur, supporting a political settlement and rejecting the possibility of a protracted conflict. We are optimistic that together and with firm steps we will move towards attaining our common goal of security and peace.

The meeting rose at 4.50 p.m.